

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 117

97TH GENERAL ASSEMBLY

0321H.15T

2013

AN ACT

To repeal sections 116.030, 116.040, 116.080, 116.090, 116.190, 116.332, and 116.334, RSMo, and to enact in lieu thereof nine new sections relating to initiative and referendum petitions, with penalty provisions and a delayed effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 116.030, 116.040, 116.080, 116.090, 116.190, 116.332, and
2 116.334, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as
3 sections 116.030, 116.040, 116.080, 116.090, 116.115, 116.153, 116.190, 116.332, and 116.334,
4 to read as follows:

116.030. The following shall be substantially the form of each page of referendum
2 petitions on any law passed by the general assembly of the state of Missouri:

3 County.

4 Page No.....

5 It is a class A misdemeanor punishable, notwithstanding the provisions of section
6 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county
7 jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any referendum
8 petition with any name other than his or her own, or knowingly to sign his or her name more than

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

9 once for the same measure for the same election, or to sign a petition when such person knows
 10 he or she is not a registered voter.

11 PETITION FOR REFERENDUM

12 To the Honorable, Secretary of State for the state of Missouri:

13 We, the undersigned, registered voters of the state of Missouri and County (or city
 14 of St. Louis), respectfully order that the Senate (or House) Bill No. entitled (title of law),
 15 passed by the general assembly of the state of Missouri, at the regular (or special)
 16 session of the general assembly, shall be referred to the voters of the state of Missouri, for
 17 their approval or rejection, at the general election to be held on the day of, unless
 18 the general assembly shall designate another date, and each for himself or herself says: I have
 19 personally signed this petition; I am a registered voter of the state of Missouri and County
 20 (or city of St. Louis); my registered voting address and the name of the city, town or village in
 21 which I live are correctly written after my name. **(Official Ballot title)**

22 CIRCULATOR'S AFFIDAVIT

23 State Of Missouri,

24 County Of

25 I,, being first duly sworn, say (print or type names of signers)

26

27 REGISTERED VOTING

28 NAME	DATE	ADDRESS	ZIP	CONGR.	NAME
29 (Signature)	SIGNED	(Street) (City,	CODE	DIST.	(Printed
30		Town or Village)			or Typed)

31

32 (Here follow numbered lines for signers)

33

34 signed this page of the foregoing petition, and each of them signed his or her name thereto in my
 35 presence; I believe that each has stated his or her name, registered voting address and city, town
 36 or village correctly, and that each signer is a registered voter of the state of Missouri and
 37 County. **FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF**
 38 **PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT**
 39 **AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED**
 40 **GUILTY TO ANY OFFENSE INVOLVING FORGERY.**

41 I am at least 18 years of age. I do do not (check one) expect to be paid for
 42 circulating this petition. If paid, list the payer

43

44
 Signature of Affiant

45 (Person obtaining signatures)

46

47 **(Printed Name of Affiant)**

48

49 Address of Affiant

50 Subscribed and sworn to before me this day of, A.D.

51

52 Signature of Notary

53 Address of Notary

54 Notary Public (Seal)

55 My commission expires

56 If this form is followed substantially and the requirements of section 116.050 **and section**
57 **116.080** are met, it shall be sufficient, disregarding clerical and merely technical errors.

116.040. The following shall be substantially the form of each page of each petition for
2 any law or amendment to the Constitution of the state of Missouri proposed by the initiative:

3 County.

4 Page No.....

5 It is a class A misdemeanor punishable, notwithstanding the provisions of section
6 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county
7 jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition
8 with any name other than his or her own, or knowingly to sign his or her name more than once
9 for the same measure for the same election, or to sign a petition when such person knows he or
10 she is not a registered voter.

11 INITIATIVE PETITION

12 To the Honorable, Secretary of State for the state of Missouri:

13 We, the undersigned, registered voters of the state of Missouri and County (or city
14 of St. Louis), respectfully order that the following proposed law (or amendment to the
15 constitution) shall be submitted to the voters of the state of Missouri, for their approval or
16 rejection, at the general election to be held on the day of,, and each for himself
17 or herself says: I have personally signed this petition; I am a registered voter of the state of
18 Missouri and County (or city of St. Louis); my registered voting address and the name of
19 the city, town or village in which I live are correctly written after my name. **(Official Ballot**
20 **title)**

21 CIRCULATOR'S AFFIDAVIT

22 State Of Missouri,

23 County Of

24 I,, being first duly sworn, say (print or type names of signers)

25

26 REGISTERED VOTING

27 NAME	DATE	ADDRESS	ZIP	CONGR.	NAME
28 (Signature)	SIGNED	(Street) (City,	CODE	DIST.	(Printed
29		Town or Village)			or Typed)

30

31 (Here follow numbered lines for signers)

32

33 signed this page of the foregoing petition, and each of them signed his or her name thereto in my
 34 presence; I believe that each has stated his or her name, registered voting address and city, town
 35 or village correctly, and that each signer is a registered voter of the state of Missouri and
 36 County.

37 **FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF**
 38 **PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT**
 39 **AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED**
 40 **GUILTY TO ANY OFFENSE INVOLVING FORGERY.**

41 **I am at least 18 years of age. I do do not (check one) expect to be paid for**
 42 **circulating this petition. If paid, list the payer**

43

44 Signature of Affiant

45 (Person obtaining

46 signatures)

47

48 **(Printed Name of Affiant)**

49

50 Address of Affiant

51 Subscribed and sworn to before me this day of ..., A.D. ...

52

53 Signature of Notary

54 Address of Notary

55 Notary Public (Seal)

56 My commission expires

57 If this form is followed substantially and the requirements of section 116.050 and section
58 116.080 are met, it shall be sufficient, disregarding clerical and merely technical errors.

116.080. 1. Each petition circulator shall be at least eighteen years of age and registered
2 with the secretary of state. Signatures collected by any circulator who has not registered with
3 the secretary of state pursuant to this chapter on or before 5:00 p.m. on the final day for filing
4 petitions with the secretary of state shall not be counted. **A petition circulator shall be deemed**
5 **registered at the time such circulator delivers a signed circulator's affidavit pursuant to**
6 **section 116.030, with respect to a referendum petition, or section 116.040, with respect to**
7 **an initiative petition, to the office of the secretary of state.**

8 [2. Each petition circulator shall supply the following information to the secretary of
9 state's office:

10 (1) Name of petition;

11 (2) Name of circulator;

12 (3) Residential address, including street number, city, state and zip code;

13 (4) Mailing address, if different;

14 (5) Have you been or do you expect to be paid for soliciting signatures for this petition?

15 ☐ YES ☐ NO;

16 (6) If the answer to subdivision (5) is yes, then identify the payor;

17 (7) Signature of circulator.

18 3. The circulator information required in subsection 2 of this section shall be submitted
19 to the secretary of state's office with the following oath and affirmation:

20 I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL
21 STATEMENTS MADE BY ME ARE TRUE AND CORRECT.

22 4.] **No person shall qualify as a petition circulator who has been convicted of, found**
23 **guilty of, or pled guilty to an offense involving forgery under the laws of this state or an**
24 **offense under the laws of any other jurisdiction if that offense would be considered forgery**
25 **under the laws of this state.**

26 2. Each petition circulator shall subscribe and swear to the proper affidavit on each
27 petition page such circulator submits before a notary public commissioned in Missouri. When
28 notarizing a circulator's signature, a notary public shall sign his or her official signature and affix
29 his or her official seal to the affidavit only if the circulator personally appears before the notary
30 and subscribes and swears to the affidavit in his or her presence.

31 [5.] 3. Any circulator who falsely swears to a circulator's affidavit knowing it to be false
32 is guilty of a class A misdemeanor punishable, notwithstanding the provisions of section 560.021
33 to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not
34 to exceed ten thousand dollars or both.

116.090. 1. Any person who **commits any of the following actions, is guilty of the**
2 **crime of petition signature fraud:**

3 (1) Signs any name other than his **or her** own to any petition, or who knowingly signs
4 his or her name more than once for the same measure for the same election, or who knows he
5 or she is not at the time of signing or circulating the same a Missouri registered voter and a
6 resident of this state; **or**

7 (2) **Intentionally submits petition signature sheets with the knowledge that the**
8 **person whose name appears on the signature sheet did not actually sign the petition; or**

9 (3) **Causes a voter to sign a petition other than the one the voter intended to sign;**
10 **or**

11 (4) **Forges or falsifies signatures; or**

12 (5) **Knowingly accepts or offers money or anything of value to another person in**
13 **exchange for a signature on a petition.**

14 2. Any person who knowingly causes a petition circulator's signatures to be
15 submitted for counting, and who either knows that such circulator has violated subsection
16 1 of this section or, after receiving notice of facts indicating that such person may have
17 violated subsection 1 of this section, causes the signatures to be submitted with reckless
18 indifference as to whether such circulator has complied with subsection 1 of this section,
19 shall also be deemed to have committed the crime of petition signature fraud.

20 3. A person who violates subsection 1 or 2 of this section, shall, upon conviction
21 thereof, be guilty of a class A misdemeanor punishable, notwithstanding the provisions of section
22 560.021 to the contrary, [for] **by** a term of imprisonment not to exceed one year in the county jail
23 or a fine not to exceed ten thousand dollars or both.

24 [2. Any person who knowingly accepts or offers money or anything of value to another
25 person in exchange for a signature on a petition is guilty of a class A misdemeanor punishable,
26 notwithstanding the provisions of section 560.021 to the contrary, for a term of imprisonment
27 not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both.]

28 4. Any person employed by or serving as an election authority, that has reasonable
29 cause to suspect a person has committed petition signature fraud, shall immediately report

30 or cause a report to be made to the appropriate prosecuting authorities. Failure to so
31 report or cause a report to be made shall be a class A misdemeanor.

116.115. Any person who submits a sample sheet to or files an initiative petition
2 with the secretary of state may withdraw the petition upon written notice to the secretary
3 of state. If such notice is submitted to the secretary of state, the proposed petition shall no
4 longer be circulated by any person, committee, or other entity. The secretary of state shall
5 vacate the certification of the official ballot title within three days of receiving notice of the
6 withdrawal.

116.153. Within thirty days of issuing certification that the petition contains a
2 sufficient number of valid signatures pursuant to section 116.150, the joint committee on
3 legislative research shall hold a public hearing in Jefferson City to take public comments
4 concerning the proposed measure. Such hearing shall be a public meeting under chapter
5 610. Within five business days after the end of the public hearing, the joint committee on
6 legislative research shall provide a summary of the hearing to the secretary of state or his
7 or her designee and the secretary of state shall post a copy of the summary on the website
8 of the office of the secretary of state.

116.190. 1. Any citizen who wishes to challenge the official ballot title or the fiscal note
2 prepared for a proposed constitutional amendment submitted by the general assembly, by
3 initiative petition, or by constitutional convention, or for a statutory initiative or referendum
4 measure, may bring an action in the circuit court of Cole County. The action must be brought
5 within ten days after the official ballot title is certified by the secretary of state in accordance
6 with the provisions of this chapter.

7 2. The secretary of state shall be named as a party defendant in any action challenging
8 the official ballot title prepared by the secretary of state. When the action challenges the fiscal
9 note or the fiscal note summary prepared by the auditor, the state auditor shall also be named as
10 a party defendant. The president pro tem of the senate, the speaker of the house and the sponsor
11 of the measure and the secretary of state shall be the named party defendants in any action
12 challenging the official summary statement, fiscal note or fiscal note summary prepared pursuant
13 to section 116.155.

14 3. The petition shall state the reason or reasons why the summary statement portion of
15 the official ballot title is insufficient or unfair and shall request a different summary statement
16 portion of the official ballot title. Alternatively, the petition shall state the reasons why the fiscal
17 note or the fiscal note summary portion of the official ballot title is insufficient or unfair and
18 shall request a different fiscal note or fiscal note summary portion of the official ballot title.

19 4. The action shall be placed at the top of the civil docket. Insofar as the action
20 challenges the summary statement portion of the official ballot title, the court shall consider the
21 petition, hear arguments, and in its decision certify the summary statement portion of the official
22 ballot title to the secretary of state. Insofar as the action challenges the fiscal note or the fiscal
23 note summary portion of the official ballot title, the court shall consider the petition, hear
24 arguments, and in its decision, either certify the fiscal note or the fiscal note summary portion
25 of the official ballot title to the secretary of state or remand the fiscal note or the fiscal note
26 summary to the auditor for preparation of a new fiscal note or fiscal note summary pursuant to
27 the procedures set forth in section 116.175. Any party to the suit may appeal to the supreme
28 court within ten days after a circuit court decision. In making the legal notice to election
29 authorities under section 116.240, and for the purposes of section 116.180, the secretary of state
30 shall certify the language which the court certifies to him.

31 **5. Any action brought under this section that is not fully and finally adjudicated**
32 **within one hundred eighty days of filing, including all appeals, shall be extinguished, unless**
33 **a court extends such period upon a finding of good cause for such extension. Such good**
34 **cause shall consist only of court-related scheduling issues and shall not include requests for**
35 **continuance by the parties.**

116.332. 1. Before a constitutional amendment petition, a statutory initiative petition,
2 or a referendum petition may be circulated for signatures, a sample sheet must be submitted to
3 the secretary of state in the form in which it will be circulated. When a person submits a sample
4 sheet of a petition he or she shall designate to the secretary of state the name and address of the
5 person to whom any notices shall be sent pursuant to sections 116.140 and 116.180 **and, if a**
6 **committee or person, except the individual submitting the sample sheet, is funding any**
7 **portion of the drafting or submitting of the sample sheet, the person submitting the sample**
8 **sheet shall submit a copy of the filed statement of committee organization required under**
9 **subsection 5 of section 130.021 showing the date the statement was filed.** The secretary of
10 state shall refer a copy of the petition sheet to the attorney general for his approval and to the
11 state auditor for purposes of preparing a fiscal note and fiscal note summary. The secretary of
12 state and attorney general must each review the petition for sufficiency as to form and approve
13 or reject the form of the petition, stating the reasons for rejection, if any.

14 2. **Within two business days of receipt of any such sample sheet, the office of the**
15 **secretary of state shall conspicuously post on its website the text of the proposed measure,**
16 **a disclaimer stating that such text may not constitute the full and correct text as required**
17 **under section 116.050, and the name of the person or organization submitting the sample**

18 **sheet. The secretary of state's failure to comply with such posting shall be considered a**
19 **violation of chapter 610 and subject to the penalties provided under subsection 3 of section**
20 **610.027. The posting shall be removed within three days of either the withdrawal of the**
21 **petition under section 116.115 or the rejection for any reason of the petition.**

22 **3.** Upon receipt of a petition from the office of the secretary of state, the attorney general
23 shall examine the petition as to form. If the petition is rejected as to form, the attorney general
24 shall forward his or her comments to the secretary of state within ten days after receipt of the
25 petition by the attorney general. If the petition is approved as to form, the attorney general shall
26 forward his or her approval as to form to the secretary of state within ten days after receipt of the
27 petition by the attorney general.

28 **[3.] 4.** The secretary of state shall review the comments and statements of the attorney
29 general as to form and make a final decision as to the approval or rejection of the form of the
30 petition. The secretary of state shall send written notice to the person who submitted the petition
31 sheet of the approval within [thirty] **fifteen** days after submission of the petition sheet. The
32 secretary of state shall send written notice if the petition has been rejected, together with reasons
33 for rejection, within [thirty] **fifteen** days after submission of the petition sheet.

116.334. 1. If the petition form is approved, the secretary of state shall **make a copy of**
2 **the sample petition available on the secretary of state's website. For a period of fifteen**
3 **days after the petition is approved as to form, the secretary of state shall accept public**
4 **comments regarding the proposed measure and provide copies of such comments upon**
5 **request. Within [ten] twenty-three days of receipt of such approval, the secretary of state**
6 **shall** prepare and transmit to the attorney general a summary statement of the measure which
7 shall be a concise statement not exceeding one hundred words. This statement shall be in the
8 form of a question using language neither intentionally argumentative nor likely to create
9 prejudice either for or against the proposed measure. The attorney general shall within ten days
10 approve the legal content and form of the proposed statement.

11 **2.** Signatures obtained prior to the date the official ballot title is certified by the secretary
12 of state shall not be counted.

13 **3. Signatures for statutory initiative petitions shall be filed not later than six**
14 **months prior to the general election during which the petition's ballot measure is submitted**
15 **for a vote, and shall also be collected not earlier than the day after the day upon which the**
16 **previous general election was held.**

Section B. The repeal and reenactment of sections 116.030, 116.040, 116.080, 116.190,
2 116.332, and 116.334, and the enactment of sections 116.115 and 116.153 shall become effective
3 on November 4, 2014.

Section C. The provisions of this act are severable. If any provision of this act is found
2 by a court of competent jurisdiction to be unconstitutional, the remaining provisions are valid
3 except to the extent that the court finds the valid provisions, standing alone, are incomplete and
4 are incapable of being executed in accordance with the will of the people.

✓